IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.1429 OF 2007

Malshidhappa Sidmalppa Shilwant .... Petitioner
Vs.
The State of Maharashtra .... Respondent

Shri Prafulla B. Shah for the Petitioner.
Ms A.S. Pai, APP, for the Respondent.

WITH

CRIMINAL WRIT PETITION NO.1430 OF 2007

Ramchandra Janardan Pedgaonkar .... Petitioner
Vs.
The State of Maharashtra .... Respondent

Shri Prafulla B. Shah for the Petitioner.
Shri P.S. Hingorani, APP, for the Respondent.

AND

CRIMINAL WRIT PETITION NO.1431 OF 2007

Anant Vilasrao Chintamani .... Petitioner
Vs.
The State of Maharashtra .... Respondent

Shri Prafulla B. Shah for the Petitioner.
Shri P.S. Hingorani, APP, for the Respondent.

CORAM: R.M.S. KHANDEPARKAR &
Smt. V.K. TAHILRAMANI, JJ.

DATED: AUGUST 02, 2007

P.C:

1. In all these petitions, the petitioners are challenging the order passed by the District Judge-1 and Additional Sessions Judge, Shrirampur on 27-7-2007 whereby the application filed by the investigating officer for cancellation of the bail granted to the petitioners in C.R.No.261 of 2006 on the ground that the Special I.G.P., Nasik Division by his order dated 28-5-2007 had allowed to invoke the provisions of the MCOC Act against the accused persons has been allowed. The said order is sought to be challenged on the ground that the point which was sought to be raised by the petitioners about the non-applicability of the MCOC Act to the case of the petitioners has been wrongly rejected by the learned Sessions Judge.

2. The impugned order on the relevant aspect reads thus:

> "Second point in this case is whether MCOCA was invoked properly or not. It does not fall in the jurisdiction of this Court. Therefore, the averment to that effect made on behalf of the accused need not be considered."

3. Apparently, therefore, the issue regarding the applicability of the provisions of the MCOC Act have not

been considered by the learned Sessions Judge and rightly so because he has no jurisdiction to deal with the said aspect. The point in that regard will have to be considered by the Special Court under the MCOC Act, if raised by the petitioners at appropriate time in appropriate proceedings. Being so, no fault can be found with the impugned order passed by the learned Sessions Judge refusing to deal with the point sought to be raised in the matter.

4. As regards the point regarding the cancellation of the bail is concerned, the petitioners, if they so desire, will have to challenge the same in appropriate proceedings before appropriate forum and not by way of writ petition under Article 226 of the Constitution of India. The efficacious alternative remedy being available to the petitioners in that regard, question of entertaining writ petition in exercise of power under Article 226 of the Constitution does not arise.

5. For the reasons stated above, therefore, the petitions fail and are rejected.

(Smt.V.K.Tahilramani, J.) (R.M.S.Khandeparkar, J.)

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